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cont.  
a lid closing the receptacle so that the lid and receptacle when installed, are disposed below an upper floor surface and wherein the lid insert and receptacle are arranged so that when the grate or appliance outlet is disposed in the lid, surface water on the floor can escape only via the inside of the receptacle.

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### **REMARKS**

Reconsideration and withdrawal of the rejection with respect to all of the claims now in the application (i.e., Claims 33-48) is respectfully requested in view of the foregoing amendments and the following remarks.

By this Amendment, the independent claims 33, and 46-48 have been amended to highlight the feature that the assembly including the lid/insert is disposed so that it is below the floor surface. More particularly, Claim 1 has been amended to recite the feature that the "insert forms a lid closing the receptacle so that the lid and receptacle are disposed below an upper floor surface". In addition, the independent claims have been amended to recite the fact that the lid insert and receptacle are arranged so that when the grate or appliance outlet is disposed in the lid, surface water on the floor may escape only via inside the receptacle. These amendments highlight the fact that the insert/lid and receptacle are disposed below the upper floor surface and accordingly ensure that any water which may leak around the periphery of a grate or appliance outlet inserted in the lid/insert can only find its way inside the receptacle instead of outside the receptacle as is the case with the prior art. As will be discussed in greater detail hereinafter, it is

respectfully submitted that the claims, as now amended, are neither anticipated nor rendered obvious by the cited art.

More particularly, as noted above, the difference between the arrangement of the present invention and that of the product disclosed in the Australian Patent No. 710,604 and for that matter the products in all of the citations is that the assembly according to the invention is below floor level but not above. This is so even when the lid is inserted. When a grate or appliance is inserted in the insert /lid of the receptacle, water draining from a floor surface can only escape via the receptacle. In the case of the arrangement of figure 2 of '604 it can be seen that floor surface water percolating under the floor surface will be prevented from entry into the receptacle. Thus, in '604 the wall 24 tends to dam any water which percolates through the floor and acts as a barrier to floor surface water escape. The device of the present invention includes a lid which performs the dual functions of allowing floor surface water to escape via the receptacle and, at the same time, allows appliance water to also escape via the receptacle. The traditional problem with floor wastes has been percolation of water about the outside of the grate or waste instead of inside. The latter problem has often lead to rotting of the floor and in time general degradation of subfloor structure. Claim 1 has been amended to reflect the feature that the assembly ( including the lid/insert) is disposed so that it is below the floor surface unlike all the devices disclosed in the citations.

The Australian citation discloses a waste assembly which is disposed (and may only be mounted) above floor level whereas the present invention is mounted below floor level.

The citation has a mutually interacting rotatable lid which can rotate relative to the body of the receptacle. The present invention includes a lid or cover which is permanently set in place ( such as by gluing) and below floor level unlike the cover 21 of the cited art. This allows complete water proofing of the floor and surrounding structure.

It is best to think of the present invention as the receptacle and insert without the grate or appliance outlet connected as that is usually connected by the end installer. The assembly is sold by the supplier as a receptacle and insert. That whole assembly sits below a floor in which it is installed.

Another characteristic of the invention is that since the receptacle and insert/lid are below floor level, an installer is able to seal the insert with known sealing compounds and create a natural fall to the grate or appliance outlet. This ensures that floor surface water can escape only through the receptacle ( even where it may find passage about the outside of a grate or appliance outlet in the insert). All of the equivalent prior art devices allow the possibility of unwanted ingress of water about a grate or appliance outlet and therefore outside the receptacle. When floor cladding is installed over the sealing layer there will be a natural fall to follow. In the prior art assemblies, a fall to the grate had to be created in the tile layer as the substrate was essentially level with no natural fall. The present invention eliminates the total reliance on a floor cladding to provide the fall. As the insert is below surface, any water either from the floor surface or which percolates through the floor surface, will naturally gravitate to the grate.

As to the rejection of the claims based upon the other cited references, as specifically set forth in paragraphs 3-7 of the Office Action, it is believed that the above-noted claim amendments are also neither disclosed nor suggested by these references

since they also do not disclose or suggest a provision of a lid and receptacle below the upper floor surface as presently set forth in each of the independent claims. Accordingly, for these reasons as well as the reasons advanced in Applicant's last Amendment, it is believed that the amended claims are patentably distinguishable over these references as well.

Applicant hereby requests a one-month extension of time to respond to the outstanding Office Action. A PTO-2038 in the amount of \$55.00 is enclosed herewith for the official fee associated therewith. In the event of any deficiency for the required amount for an extension of time, please debit Deposit Account No. 07-0130.

In view of the foregoing, it is respectfully submitted that all of the claims now in the application are patentably distinguishable over the references of record. Accordingly, reconsideration and withdrawal of the rejection and allowance of the claims at an early date are earnestly solicited.

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Respectfully submitted,



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Enclosure: Version With Markings to Show Changes to Claims  
PTO-2038 form in the amount of \$55.00 for one-month extension of time  
Postcard



**VERSION WITH MARKINGS TO SHOW CHANGES TO CLAIMS**

33. (Amended) A floor or ground surface waste assembly for receiving floor or appliance generated waste; the assembly including;

a waste collecting receptacle including an open mouth for receiving waste products from a floor surface or appliance and a well which terminates in an outlet in fluid communication with said mouth, the outlet connecting the waste assembly to a waste drainage line for eventual discharge of said waste; said collecting receptacle also including a recessed bearing surface extending at least partially about the periphery of said waste body and which is capable of supporting thereon an insert which forms part of a floor; wherein, the insert forms a lid closing the receptacle so that the lid and receptacle when installed, are disposed below an upper floor surface and wherein, the insert [receives and retains] is capable of receiving and retaining a grate or appliance outlet; wherein the grate or appliance outlet may be positioned [above underfloor surface level] in an opening formed in the lid under a floor surface level and at a height to accommodate a thickness of a floor cladding and at any location in the area of the insert and within the periphery of the collecting receptacle thereby allowing the assembly to accommodate a predetermined pattern, layout or configuration of floor or ground cladding; wherein the assembly allows the grate or appliance outlet to be positioned in the insert not necessarily in alignment with under floor drainage plumbing; wherein the lid insert and receptacle are arranged so that when the grate or

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appliance outlet is disposed in the lid, surface water on the floor can escape only via the inside of the receptacle.

46. (Amended) A waste assembly for receiving and discharging waste from a waste producing appliance, surface drain or the like in communication with the assembly ; the assembly including;

a waste receptacle having an open mouth defining a recess for receiving said waste;

an outlet capable of connection to an inlet of drainage plumbing infrastructure allowing discharge of said waste; a closure supported by the waste receptacle for closing said mouth and which receives said surface drain or an outlet of said waste producing appliance; wherein, the closure is proportioned such that an installer of said surface drain or outlet of said appliance may position said drain or appliance outlet at any selected position within the periphery of said waste receptacle thereby obviating the need for direct connection [and or] and/or axial alignment between said surface drain or appliance outlet and an inlet of said plumbing infrastructure; wherein, the insert forms a lid closing the receptacle so that the lid and receptacle when installed, are disposed below an upper floor surface and wherein the lid insert and receptacle are arranged so that when the grate or appliance outlet is disposed in the lid, surface water on the floor can escape only via the inside of the receptacle.

47. (Amended) A waste assembly for connecting an appliance outlet or floor drain to plumbing infrastructure of a building, the waste assembly comprising; a waste body having a wide mouth and defining a reservoir which includes an outlet which connects said waste body to an inlet to drainage plumbing infrastructure, a closure member closing said mouth and which receives via an opening within said appliance outlet or floor drain; wherein said closure member is of sufficient area to allow a selection of the position of said appliance outlet or drain anywhere within the periphery of the waste body such that the position in the closure of the appliance outlet or floor grate is not dictated by direct axial alignment of said appliance outlet or floor drain with said inlet to drainage plumbing infrastructure ; wherein, the insert forms a lid closing the receptacle so that the lid and receptacle when installed, are disposed below an upper floor surface and wherein the lid insert and receptacle are arranged so that when the grate or appliance outlet is disposed in the lid, surface water on the floor can escape only via the inside of the receptacle.

48. (Amended) A waste receptacle for use with a waste assembly for collection and discharge of waste from a waste generating appliance or floor waste, the waste body including an open mouth receptacle for receiving said waste and an outlet for discharging said waste received in said receptacle, the waste receptacle further including a bearing surface which receives an insert proportioned to cover said mouth , the insert adapted to receive a grate or outlet of a waste generating appliance positioned in the insert such that the outlet of the waste receptacle connects to and

aligns with an inlet to under floor drainage plumbing whereas said grate or appliance outlet need not align with said inlet to said under floor plumbing thereby allowing flexibility in the positioning of said floor grate or appliance; wherein, the insert forms a lid closing the receptacle so that the lid and receptacle when installed, are disposed below an upper floor surface and wherein the lid insert and receptacle are arranged so that when the grate or appliance outlet is disposed in the lid, surface water on the floor can escape only via the inside of the receptacle.